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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,239	10/16/2003	Michael Gilfix	AUS920030360US1	8992
34533 7590 09/15/2009 INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469				
EXAMINER				
THOMAS, JASON M				
ART UNIT		PAPER NUMBER		
2423				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/687,239

## Applicant(s)

GILFIX ET AL.

## Examiner

Jason Thomas

## Art Unit

2423

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new grounds of rejection.

While the Examiner asserted that Katcher is silent regarding the teaching, "wherein the advertising data is encoded in a digital data stream separate from a video signal", upon further review of the Katcher reference, the Examiner has concluded that the initial claim interpretation was unnecessarily narrow. That is to say that while Katcher only teaches the transmission of a single transport stream, containing both the video signal and advertising data, to the end user equipment, the advertising data is encoded in a digital stream separate from the video signal (see [fig. 2, 2a-2d], [abstract], [cols. 1-2, ll. 50-3], [col. 6, ll. 5-25], [cols. 6-7, ll. 50-12], [col. 7, ll. 32-50] where PIDs are used to identify multiple elementary streams contained within the transport stream in the MPEG2 standard). The Examiner apologizes for this misstatement.

With regards to the newly added language inserted with the combined limitations of claims 2 and 4 which were rolled up into the amended claim 1, "with advertising content... synchronized with movement in a video display displaying the video signal", the Examiners response can be viewed below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Katcher.

**Regarding claim 1:** Katcher discloses a method and system for delivering interactive advertising content which comprises (see [abstract], [col. 4, ll. 14-48]): receiving a selection signal indicating that a user has selected an item displayed on a television screen wherein the item has associated interactive advertising content; responsive to receiving the selection signal, identifying the selected item; (see [fig. 1], [col. 14, ll. 22-32], [cols. 17-18, ll. 64-11] for selecting); and displaying the associated interactive advertising content (see [col. 18, ll. 12-55] for displaying advertising content which includes the brand name, model, price, local vendor, etc.), receiving and storing advertising data that associates the selected item with a screen region and with interactive advertising content (see [fig.[cols. 1-2, ll. 50-3] for receiving and storing annotation and mask data), the advertising data encoded in a digital stream separate from a video signal (see [fig. 2, 2a-2d], [abstract], [cols. 1-2, ll. 50-3], [col. 6, ll. 5-25], [cols. 6-7, ll. 50-12], [col. 7, ll. 32-50] where PIDs are used to identify multiple elementary streams

contained within the transport stream in the MPEG2 standard) and synchronized with movement in a video display displaying the video signal (see [col. 4, ll. 14-48], [col. 5, ll. 25-42], [cols. 11-12, ll. 21-2] where the mask associated with a particular object, such as a shirt, is moved frame by frame along with the object displayed in the video, thus the advertisement content is synchronized with the video signal on a frame by frame basis), wherein receiving the advertising data comprises receiving the data stream through a digital network (see [col. 6, ll. 5-25], [cols. 28-29, ll. 54-8] for a digital broadcast network).

**Regarding claim 3:** Katcher discloses all of the limitations of claim 2 including wherein receiving the advertising data comprises receiving the advertising data encoded in a video signal that includes a video image of the item (see [col. 4, ll. 34-48] for receiving the video image of the item).

**Regarding claim 5:** Katcher discloses wherein the advertising data includes instructions for control of the display of interactive non-intrusive advertising content for the item (see [abstract], [col. 4, ll. 34-48], [col. 11, ll. 34-67] for advertising data which includes instructions for display control).

**Regarding claim 6:** Katcher discloses all of the limitations of claim 1 further comprising: receiving one or more designation signals, wherein each designation signal represents an instruction to designate an item having associated non-intrusive interactive advertising content; responsive to receiving each designation signal, designating singly, as a currently designated item, each of a multiplicity of items having associated non-intrusive interactive advertising

content; wherein identifying the selected item comprises identifying as the selected item the currently designated item (see [fig. 1], [fig. 5], [col. 4, ll. 34-48], [col. 12, ll. 10-42], [col. 14, ll. 22-32]).

**Regarding claim 7:** Katcher discloses all of the limitations of claim 6 including wherein designating singly each of a multiplicity of items further comprises logically designating an item and visually designating an item ( see [figs. 1a-1d], [fig. 5], [fig. 12, ll. 10-42], [col. 14, ll. 22-32] for visual and logical designations).

**Regarding claim 8:** Katcher discloses all of the limitations of claim 7 including wherein logically designating an item comprises setting a designation data element in advertising data for the item (see [abstract], [col. 4, ll. 34-37], [fig. 5], [fig. 12, ll. 10-42], [col. 14, ll. 22-32]).

**Regarding claim 9:** Katcher discloses wherein visually designating an item comprises displaying descriptive text for the item (see [fig. 1] for descriptive text).

**Regarding claim 10:** Katcher discloses all of the limitations of claim 7 including wherein visually designating an item comprises changing a video display of the item (see [fig. 1], [col. 17, ll. 64-2] for changing the appearance of the video display item).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katcher, in view of Wistendahl et al. U.S. Pre-Grant Pub. No. 2002/0056136 A1 (hereinafter Wistendahl).

**Regarding claim 11:** Katcher does not teach tracking a cursor position on the television screen, wherein identifying the selected item comprises identifying the selected item in dependence upon the cursor position when the selection signal is received.

Wistendahl teaches the use of a mouse or other pointing device which is tracked to correlate the screen coordinates of the pointing device with what the user has selected (see [0015], [0016], [0042], [0067], [0088]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of interacting with the items on the screen using a selection device as taught in Katcher by using a pointing device which can track screen coordinates as taught by Wistendahl in order to provide a more efficient means of selecting an item on the screen.

**Regarding claim 12:** The combined teachings of Katcher, in view of Wistendahl, teach wherein the identifying the selected item in dependence upon the cursor position further comprises determining whether the cursor position is

within a screen region associated with the item (see [0015], [0016], [0042], [0067], [0088] for determining whether a pointing device or cursor is aimed at a hot spot (screen region associated with the item) or at positions of objects).

**Regarding claim 13:** The combined teachings of Katcher, in view of Wistehdahl, teach wherein the advertising content comprises a web page describing the item and offering an on-line sale of the item (see [0043], [0064] initiating an internet connection to a WWW service which offers an item for purchase).

**Regarding claim 14:** The combined teachings of Katcher, in view of Wistehdahl, teach wherein displaying the associated non-intrusive interactive advertising content comprises downloading a web page from a remote web site identified in a link associated with the selected item (see [0043], [0064] where a web page can be downloaded through a link associated with a selected item).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not



mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Thomas whose telephone number is (571) 270-5080. The examiner can normally be reached on Mon. - Thurs., 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J. Thomas

/Andrew Y Koenig/  
Supervisory Patent Examiner, Art Unit 2423

